IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JOSE TRUJILLO, individually and on behalf of all others similarly situated, Plaintiff, v. APPLE COMPUTER, INC., a California corporation and AT&T MOBILITY LLC, a Georgia corporation, Defendants.	CASE NO.: 07-CV-04946 Judge Kennelly

DECLARATION OF ANDREW MUHLBACH IN SUPPORT OF APPLE'S MOTION FOR SUMMARY JUDGMENT

I, Andrew D. Muhlbach, declare as follows:

1. I am an attorney-at-law, admitted to practice in the State of California and before this Court. I am a partner with Morrison & Foerster LLP, counsel of record for defendant Apple Inc.. I have personal knowledge of the following facts and, if called as a witness, I could and would testify thereto.

2. Plaintiff served a Notice of Deposition for Jennifer Hakes on April 8, 2008. A true and correct copy of that deposition notice is attached as Exhibit A to this declaration.

3. On April 23, 2008, I sent an email to plaintiff's counsel, James Rowe, alerting him to Apple's objection to the location noticed for the Hakes deposition and offering to make Ms. Hakes available for deposition in California.

4. Mr. Rowe subsequently responded to my email with a telephone call to discuss the possibility of conducting the deposition by video conference call. During this conversation, I

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informed Mr. Rowe that Ms. Hakes had not told the Associated Press that Apple's battery program disclosures were posted after the iPhone went on sale. I also told Mr. Rowe that Ms. Hakes would so testify under oath if deposed.

5. Plaintiff eventually chose not to depose Ms. Hakes.

6. In PLAINTIFF'S SUPPLEMENTAL RESPONSE TO DEFENDANT AT&T MOBILITY LLC'S MOTION TO COMPEL ARBITRATION, AND TO AT&T MOBILITY LLC'S CITATION TO SUPPLEMENTAL AUTHORITY, filed with this Court on April 3, 2008, plaintiff submitted a copy of his July 2, 2007, iPhone purchase receipt as Exhibit B to that filing. A true and correct copy of that Exhibit B is attached hereto as Exhibit B for the Court's convenience.

7. On July 21, 2008, I conducted an internet search for vendors offering iPhone battery replacements. That search revealed there are at least two online vendors (iPodjuice.com and Shop.Brando.Com.hk) currently offering iPhone battery replacements to iPhone owners at prices lower than or comparable to Apple's $79 BRP. I downloaded the webpages of those vendors concerning their iPhone battery replacement offerings. Attached hereto as Exhibits C and D are true and correct copies of those downloaded webpages including their source URL.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed at San Francisco, California on July 24, 2008.

______/s/Andrew D. Muhlbach__________
Andrew D. Muhlbach